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**JUN 04 2019**

Clerk, U.S. Courts  
District of Montana  
Missoula Division

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION**

**REX KAY SMITH,**

**Plaintiff,**

**vs.**

**INTEGROW MALT, LLC, BARRETT  
BUSINESS SERVICES, INC.,  
CARGILL, INC., ANHEUSER-  
BUSCH INBEV WORLDWIDE, INC.  
GREGG SMITH, MIKE TSANTIS,  
ALREDO AVILA, and ANDREW  
SHAW,**

**Defendants.**

**CV 19-44-M-DLC-JCL**

**ORDER**

United States Magistrate Judge Jeremiah C. Lynch entered his Findings and Recommendation on April 25, 2019, recommending that the Court dismiss this action for failure to state a claim upon which relief can be granted and for lack of jurisdiction. (Doc. 5.) Plaintiff Rex Kay Smith failed to timely object to the Findings and Recommendations, and so waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). This Court reviews for clear error those findings and recommendations to which no party objects. *See Thomas v. Arn*, 474 U.S. 140, 149–53 (1985). Clear error exists if the Court is left with a “definite and

firm conviction that a mistake has been made.” *Wash. Mut., Inc. v. United States*, 856 F.3d 711, 721 (9th Cir. 2017) (citation omitted).

Having reviewed the Findings and Recommendation (Doc. 5) and Judge Lynch’s earlier order identifying deficiencies in Smith’s Complaint (Doc. 4), the Court finds no clear error in Judge Lynch’s recommendation to dismiss Smith’s complaint. Smith has not alleged facts regarding the Defendants’ citizenship or the amount in controversy, and the Court accordingly cannot find that it has jurisdiction or that the District of Montana is an appropriate venue. (Doc. 4 at 4–9.) Further, the Court agrees that, even if jurisdiction and venue were proper, Smith failed to state a claim for relief because he did not allege his claims with enough specificity to plausibly suggest liability for any injuries he has suffered. (Doc. 4 at 10–11.)

Accordingly, IT IS ORDERED that:

- (1) Judge Lynch’s Findings and Recommendation (Doc. 5) is ADOPTED IN FULL;
- (2) Plaintiff Rex Kay Smith’s complaint is DISMISSED; and
- (3) The Clerk of Court shall enter judgment for the Defendants and shall close this case.

DATED this 4<sup>th</sup> day of June, 2019.



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Dana L. Christensen, Chief Judge  
United States District Court